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6 **BEFORE THE**
7 **BOARD OF REGISTERED NURSING**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2012-492

11 **ALIA CHRISTIAN GAUTHIER**
12 **9140 Brookshire Avenue, Apt. 121**
13 **Downey, CA 90240**
14 **Registered Nurse License No. 683221**

DEFAULT DECISION AND ORDER

[Gov. Code, § 11520]

15 Respondent.

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17 **FINDINGS OF FACT**

18 1. On or about February 23, 2012, Complainant Louise R. Bailey, M.Ed., RN, in her
19 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
20 of Consumer Affairs, filed Accusation No. 2012-492 against Alia Christian Gauthier
21 (Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

22 2. On or about July 13, 2006, the Board of Registered Nursing (Board) issued
23 Registered Nurse License No. 683221 to Respondent. The Registered Nurse License was in full
24 force and effect at all times relevant to the charges brought in Accusation No. 2012-492 and
25 expired on January 31, 2012. This lapse in licensure, however, pursuant to Business and
26 Professions Code section 118, subdivision (b) and Business and Professions Code section 2764,
27 does not deprive the Board of its authority to institute or continue this disciplinary proceeding.

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1 3. On or about February 23, 2012, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 2012-492, Statement to Respondent, Notice of Defense,
3 Request for Discovery, and Discovery Statutes (Gov. Code, §§ 11507.5, 11507.6, and 11507.7) at
4 Respondent's address of record which, pursuant to California Code of Regulations, title 16,
5 section 1409.1, is required to be reported and maintained with the Board, which was and is: 9140
6 Brookshire Avenue, Apt. 121, Downey, California 90240.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
9 124.

10 5. On or about March 7, 2012 and March 12, 2012, the aforementioned documents were
11 returned by the U.S. Postal Service marked "Attempted Not Known, Return to Sender." The
12 address on the documents was the same as the address on file with the Board. Respondent failed
13 to maintain an updated address with the Board, and the Board has made attempts to serve the
14 Respondent at the address on file. Respondent has not made herself available for service and
15 therefore, has not availed herself of her right to file a notice of defense and appear at hearing.

16 6. Government Code section 11506 states, in pertinent part:

17 “(c) The respondent shall be entitled to a hearing on the merits if the respondent
18 files a notice of defense, and the notice shall be deemed a specific denial of all parts
19 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.”

20 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
21 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2012-
22 492.

23 8. California Government Code section 11520 states, in pertinent part:

24 “(a) If the respondent . . . fails to file a notice of defense . . . , the agency may
25 take action based upon the respondent's express admissions or upon other evidence
and affidavits may be used as evidence without any notice to respondent. . . .”

26 9. Pursuant to its authority under Government Code section 11520, the Board finds
27 Respondent is in default. The Board will take action without further hearing and, based on the
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1 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
2 taking official notice of all the investigatory reports, exhibits and statements contained therein on
3 file at the Board's offices regarding the allegations contained in Accusation No. 2012-492, finds
4 that the charges and allegations in Accusation No. 2012-492, are separately and severally, found
5 to be true and correct by clear and convincing evidence.

6 10. Taking official notice of its own internal records, pursuant to Business and
7 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
8 and Enforcement is \$5,485.50 as of March 20, 2012.

9 DETERMINATION OF ISSUES

10 1. Based on the foregoing findings of fact, Respondent Alia Christian Gauthier has
11 subjected her Registered Nurse License No. 683221 to discipline.

12 2. The agency has jurisdiction to adjudicate this case by default.

13 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered
14 Nurse License based upon the following violations alleged in the Accusation which are supported
15 by the evidence contained in the Default Decision Evidence Packet in this case:

16 a. First Cause for Discipline for Under Influence of Controlled Substances at Work
17 (Bus. & Prof. Code, § 2762, subd. (b));

18 b. Second Cause for Discipline for Possession/Self-Administration of Controlled
19 Substances (Bus. & Prof. Code, § 2762, subd. (a)); and

20 c. Third Cause for Discipline for Unprofessional Conduct (Bus. & Prof. Code, § 2761,
21 subd. (a)).

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1 ORDER

2 IT IS SO ORDERED that Registered Nurse License No. 683221, heretofore issued to
3 Respondent Alia Christian Gauthier, is revoked.

4 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
5 written motion requesting that the Decision be vacated and stating the grounds relied on within
6 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
7 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

8 This Decision shall become effective on August 3, 2012.

9 It is so ORDERED July 5 2012

10 

11 FOR THE BOARD OF REGISTERED NURSING
12 DEPARTMENT OF CONSUMER AFFAIRS

13
14 51085171.DOC
DOJ Matter ID:LA2012506157

15 Attachment:
16 Exhibit A: Accusation
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Exhibit A

Accusation

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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. **2012-492**

11 **ALIA CHRISTIAN GAUTHIER**
12 **9140 Brookshire Avenue, Apt. 121**
13 **Downey, CA 90240**
Registered Nurse License No. 683221

A C C U S A T I O N

14 Respondent.

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16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., R.N. (Complainant) brings this Accusation solely in her
19 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
20 of Consumer Affairs.

21 2. On or about July 13, 2006, the Board issued Registered Nurse License Number
22 683221 to Alia Christian Gauthier (Respondent). The Registered Nurse License was in full force
23 and effect at all times relevant to the charges brought herein and will expire on January 31, 2012,
24 unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing (Board),
27 Department of Consumer Affairs, under the authority of the following laws: All section
28 references are to the Business and Professions Code (Code) unless otherwise indicated.

1 4. Section 118, subdivision (b) of the Code provides that the
2 suspension/expiration/surrender/cancellation of a license shall not deprive the Board of
3 jurisdiction to proceed with a disciplinary action during the period within which the license may
4 be renewed, restored, reissued or reinstated.

5 5. Section 2750 of the Code provides that the Board may discipline any licensee,
6 including a licensee holding a temporary or an inactive license, for any reason provided in Article
7 3 (commencing with section 2750) of the Nursing Practice Act.

8 6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
9 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
10 licensee or to render a decision imposing discipline on the license.

11 7. Under section 2811, subdivision (b), of the Code, the Board may renew an expired
12 license at any time within eight years after the expiration.

13 STATUTORY PROVISIONS

14 8. Section 2761 of the Code states, in pertinent part:

15 "The board may take disciplinary action against a . . . licensed nurse . . . for any of the
16 following:

17 "(a) Unprofessional conduct . . ."

18 9. Section 2762 of the Code states, in pertinent part:

19 "In addition to other acts constituting unprofessional conduct within the meaning of this
20 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
21 chapter to do any of the following:

22 "(a) Obtain or possess in violation of law, or . . . administer to . . . herself . . . any
23 controlled substance as defined in Division 10 (commencing with Section 11000) of the Health
24 and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

25 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
26 11000) of the Health and Safety Code, or any dangerous drug . . . as defined in Section 4022, . . .
27 to an extent or in a manner dangerous or injurious to . . . herself, any other person, or the public or
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1 to the extent that such use impairs his or her ability to conduct with safety to the public the
2 practice authorized by his or her license.”

3 10. Section 4022 of the Code defines the term “dangerous drug” as “any drug . . . unsafe
4 for self-use in humans . . . , and includes the following:

5 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without
6 prescription,’ ‘Rx only,’ or words of similar import.

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8 “(c) Any other drug . . . that by federal or state law can be lawfully dispensed only on
9 prescription or furnished pursuant to Section 4006.”

10 REASONABLE COSTS

11 11. Section 125.3 of the Code provides that the Board may request the administrative law
12 judge to direct a licentiate found to have committed a violation or violations of the licensing act to
13 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

14 CONTROLLED SUBSTANCES

15 12. Amphetamine is a Schedule II controlled substance as designated by Health and
16 Safety Code section 11055, subdivision (d)(1), and is categorized as a dangerous drug pursuant to
17 Code section 4022.

18 13. Methamphetamine is a Schedule II controlled substance as designated by Health and
19 Safety Code section 11055, subdivision (d)(2), and is categorized as a dangerous drug pursuant to
20 Code section 4022.

21 FIRST CAUSE FOR DISCIPLINE

22 (Under Influence of Controlled Substances at Work)

23 14. Respondent is subject to disciplinary action under Code sections 2750 and 2762,
24 subdivision (b), in that Respondent used controlled substances to an extent or in a manner
25 dangerous or injurious to herself or others, or to the extent that such use impaired her ability to
26 safely practice nursing. The circumstances are as follows:

27 a. On or about September 2, 2010, Respondent came to work late at St. Francis Medical
28 Center in Lynwood, California. She looked unkempt and gaunt, exhibited signs of confusion,

1 forgetfulness and inefficiency, and at one point screamed at another nurse, new negative
2 behaviors she began exhibiting in August 2010, including yelling at the Emergency Room (ER)
3 Charge Nurses. Initially denying the use of drugs, Respondent was asked and submitted to a drug
4 test that came back positive for amphetamines and methamphetamine.

5 SECOND CAUSE FOR DISCIPLINE

6 (Possession/Self-Administration of Controlled Substances)

7 15. Respondent is subject to disciplinary action under Code sections 2750 and 2762,
8 subdivision (a), in that Respondent was in possession of and administered to herself controlled
9 substances in violation of law. Complainant refers to and incorporates all the allegations
10 contained in paragraph 14, subparagraph (a) above, inclusive, as though set forth fully.

11 THIRD CAUSE FOR DISCIPLINE

12 (Unprofessional Conduct)

13 16. Respondent is subject to disciplinary action under Code sections 2750 and 2761,
14 subdivision (a), in that Respondent engaged in unprofessional conduct, including coming late to
15 work, forgetfulness regarding patients, failing to return phone calls and yelling at other nurses.
16 Complainant refers to and incorporates all the allegations contained in paragraph 14,
17 subparagraph (a) above, inclusive, as though set forth fully. Additional circumstances are as
18 follows:

19 a. On or about August 31, 2010, Respondent failed to assign open beds to patients.

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21 PRAYER

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Board of Registered Nursing issue a decision:

24 1. Revoking or suspending Registered Nurse License Number 683221, issued to
25 Respondent Alia Christian Gauthier;

26 2. Ordering Respondent to pay the Board of Registered Nursing the reasonable costs of
27 the investigation and enforcement of this case, pursuant to Code section 125.3; and

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3. Taking such other and further action as deemed necessary and proper.

DATED: February 23, 2012 Louise R. Bailey
LOUISE R. BAILEY, M.Ed., RN
Interim Executive Officer
Board of Registered Nursing
State of California
Complainant

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